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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,675	07/24/2000	Guy Nathan	871-87	6898

7590 09/09/2004

Nixon & Vanderhye PC  
8th Floor  
1100 North Glebe Road  
Arlington, VA 22201-4714

EXAMINER
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SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/621,675

**Applicant(s)**

NATHAN, GUY

**Examiner**

Dominic D Saltarelli

**Art Unit**

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2000.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 14-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 09/357,762.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.4.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

Art Unit: 2611

**DETAILED ACTION*****Drawings***

1. The drawings are objected to because legends should be provided to readily identify the features of the drawings, see MPEP § 608.02(o). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Art Unit: 2611

2. Claim 18 is objected to because of the following informalities: Claim 18 line 2 refers to "claim 1" and should be changed to read --claim 14--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,959,869, of record) [Miller] in view of Siegel et al. (4,413,260) [Siegel].

Regarding claim 14, Miller discloses an audiovisual reproduction system (fig. 2) comprising a central unit (processor 201 in fig. 1) controlling display means (video monitor 102 in fig. 2), memory means (fig. 1, DRAM 206, SRAM 208, and EEPROM 210) controlled by an operating system comprising a tools and services library (processor 201 consists of software modules which control vending operations, telecommunication operations, and multimedia presentations, col. 10, lines 25-44). Miller further discloses the all the software code resident in the system is written and updated by a remote system (col. 10, lines 45-55).

Miller fails to disclose an operator can access a module in the tools and services library, to offer the manager of the audiovisual reproduction system a given number of credits, one credit corresponding to the fee necessary to select a song, the number of credits being stored in a file on the memory means, this file being updated each time that the manager uses a credit and each time that the operator supplies one or more credits.

In an analogous art, Siegel teaches an audio reproduction system (col. 2, lines 49-32) wherein an operator (serviceman) can offer the manager of the reproduction system a given number of credits, one credit corresponding to the fee necessary to select a song (through actuation of the 'free play credit entry function'), enabling the operator to give the special benefit of free use to the manager.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller to include offering credits, wherein one credit corresponds to the fee necessary to select a song, as taught by Siegel, wherein the number of credits available would be kept track of in a file in the memory means, as the system disclosed by Miller is a computer with an operating system (Miller, col. 10, lines 34-44). The reason for doing so is to provide the benefit of free use of the system to the manager, as it is well known to offer free samples of products in order to encourage purchases, and enabling the manager to play a given number of songs for free would engender further use of the system by users.

Art Unit: 2611

Regarding claim 18, Miller and Siegel disclose the system of claim 14, wherein the operator can limit the ranges of values within which the manager can modify the physical parameters of the audiovisual reproduction system (the operator has complete control over the software code resident in the system, Miller, col. 10, lines 45-55, and thus the operator is capable of programming the system of limit the ranges of values within which the manager can modify the physical parameters).

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Siegel as applied to claim 14 above, and further in view of Kalis et al. (6,212,138) [Kalis].

Regarding claim 15, Miller and Siegel disclose the system of claim 14, but fail to disclose credits supplied by the operator can be used within a given time range determined by a program module that displays a special screen for selection of time ranges within which the credits in the reserve may be used.

In an analogous art, Kalis teaches an audiovisual reproduction system (fig. 1) wherein an operator sets a time range for 'free play' of the system (col. 9, lines 55-56) and a special screen is displayed with provides feedback concerning the selection of said time ranges (col. 10, lines 9-29), giving the operator flexibility in control over the use of the system.

Art Unit: 2611

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller and Siegel to include determining a time range for when free play can occur by the operator and displaying a special screen for selection of said time range, as taught by Kalis, wherein the credits (taught by Siegel) are the means by which 'free play' is actuated. The reason for doing so is to offer the operator flexibility in control over use of the audiovisual reproduction system.

6. Claim 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Siegel as applied to claim 14 above, and further in view of Werth et al. (4,369,442) [Werth].

Regarding claim 16, Miller and Siegel disclose the system of claim 14, but fail to disclose the credit reserve can only be used by the manager, and is controlled by the manager entering a confidential code requested every time before the use of a credit in the reserve is validated.

In an analogous art, Werth teaches restricting access to specific aspects of a vending machine to the owner [manager] (access of output registers only being available to owners, col. 4, lines 4-9), accessed through entry of an input code (col. 4, lines 9-12), granting exclusive access to only the parties which have a right said vending machine aspects.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller and Siegel to include restricting

Art Unit: 2611

access to a specific aspect of the system which is accessed through entry of a confidential code, as taught by Werth, wherein the manager is the only party with the right to access and use the credit reserve. The reason for doing so is to grant exclusive access to the credit reserve to the only party with a right to utilize the credit reserve, the manager.

Regarding claim 17, Miller and Siegel disclose the system of claim 14, wherein the operation of crediting the credit reserve can only be used by the operator (Siegel teaches the 'free play credit entry function' is available only to a serviceman, col. 2, lines 50-56), but Miller and Siegel fail to disclose entering a confidential code requested every time before adding a credit to the reserve is validated.

In an analogous art, Werth teaches accessing sensitive features of a vending machine by entering an input code (col. 4, lines 4-12), wherein input codes enhance security.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller and Siegel to include entering a confidential code requested every time before adding a credit to the reserve is validated, enhancing the security of the audiovisual reproduction system and the credit reserve.

### ***Double Patenting***



Art Unit: 2611

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-18 of U.S. Patent No. 6,336,219. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are different descriptions of the same subject matter, varying in breadth.

a. The "Audiovisual reproduction system" in line 1, claim 14 of the instant application corresponds to the "Digital jukebox system according to claim 1" in line 1, claim 14 of patent # 6,336,219.

b. The "song" claimed in line 8 of claim 14 of the instant application corresponds to the "audiovisual record" claimed in line 7 of claim 14 of patent # 6,336,219.

It would have been obvious at the time to a person of ordinary skill in the art to readily recognize that the conflicting claims are different descriptions of the same subject matter, varying in breadth.

Art Unit: 2611

Claims 15-18 of the instant application correspond to claims 15-18 of patent # 6,336,219 because said claims in both the instant application and patent # 6,336,219 are different descriptions of the same subject matter varying in breadth.

### ***Conclusion***

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Art Unit: 2611

## Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Art Unit: 2611

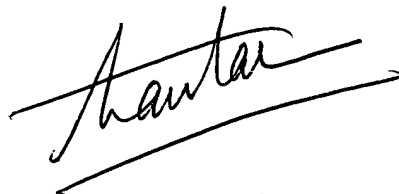
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D Saltarelli whose telephone number is (703) 305-8660. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
Art Unit 2611

DS

A handwritten signature in black ink, appearing to read "HAITRAN", is written over a horizontal line.

HAITRAN  
PATENT EXAMINER